



Technical Bulletin 1.4.1

Growth Management Act Updates: Review and Revision of Comprehensive Plans and Development Regulations under the Growth Management Act

Purpose

This Washington State Department of Community, Trade and Economic Development (CTED) bulletin from the Growth Management Services (GMS) program provides guidance, based on current statutes, for local governments to determine the appropriate public process and level of review and revision for their comprehensive plans and development regulations.

Background: Planning Requirements Under the GMA

A county, including the cities within the county, are fully planning under the Growth Management Act (GMA) if:

1. they have a population of 50,000 or more and a population increase of 10 percent or more over the last ten years, or
2. they have a population increase of over 20 percent for the last ten years regardless of current population.

By legislative action by their commissioners, some counties opted to plan fully under the act, recognizing GMA planning as a catalyst for obtaining needed services or attracting economic development.

Fully planning under the GMA means that a city or county must meet all GMA requirements, including adoption of a comprehensive plan and a complete set of development regulations implementing the plan. Those counties and the cities within their boundaries not meeting the population requirements and choosing not to fully plan under the act plan only for natural resources lands and critical areas.

Who is planning under the Growth Management Act

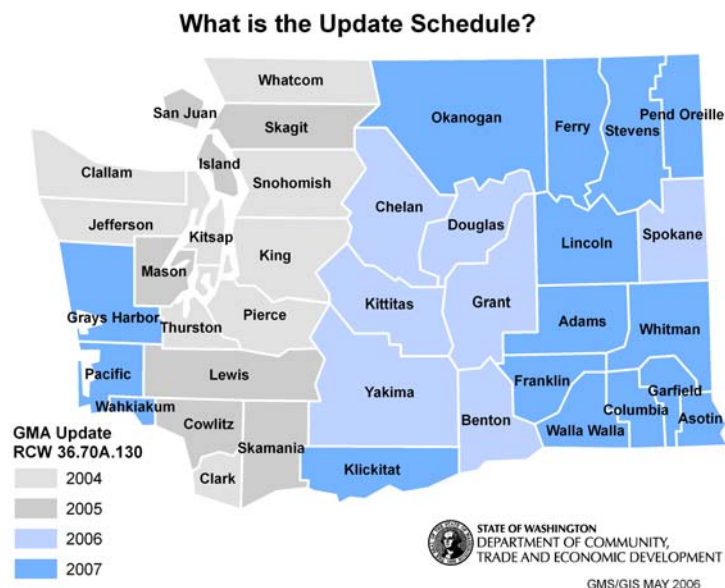


Update Timeline

RCW 36.70A.130(4) sets the schedule for updates to comprehensive plans and development regulations under the GMA. That schedule has undergone several revisions, including ESHB 2171 in 2005 and ESSB 6427 in 2006.

In 2002 the state legislature established a schedule for review and, if needed, revision of local plans and regulations to occur every seven years:

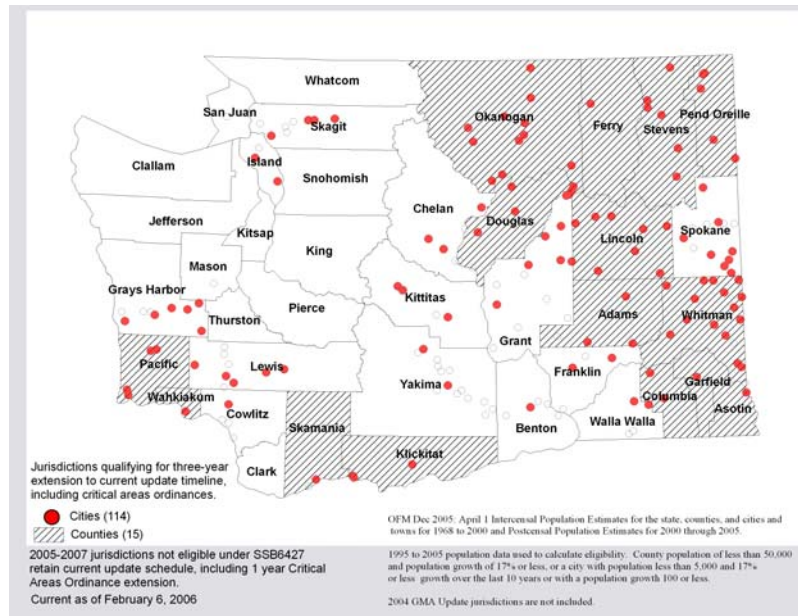
- *December 1, 2004* – Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties.
- *December 1, 2005* – Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties.
- *December 1, 2006* – Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties.
- *December 1, 2007* – Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties.



ESHB 2171, adopted in 2005, extends the schedule for only one part of the update, critical areas ordinances, for one year for jurisdictions updating their comprehensive plans and development regulations in 2005-2007.

ESSB 6427, adopted in 2006, provides a three-year extension for small, slow-growing jurisdictions to update their comprehensive plans and development regulations, including critical area ordinances (see map below). The law defines small and slow-growing counties as those with a population of less than 50,000 and a growth rate of 17 percent or less over the ten-year period prior to their update deadline. Small and slow-growing cities are those with a population of 5,000 or less and a growth rate of 17 percent or less over the same ten-year period.

In addition, cities and counties with population growth of 100 people or less during the same ten-year period also qualify. See the list of the 114 cities and 15 counties qualifying as of bill passage at the back of this bulletin. Note that the list of qualifying jurisdictions is directly linked to population data. Data changes over time, thus the list of qualifying jurisdictions may change.



2005-2007 update jurisdictions not eligible under ESSB 6427 still qualify for the one-year extension of critical areas ordinances under ESHB 2171. They also retain the current schedule of updates to comprehensive plans and development regulations.

Update Process

Generally, jurisdictions update plans and regulations on a regular basis to reflect local needs, new data, and current laws. Many cities and counties consider amendments to comprehensive plans annually or biannually, and amend their development regulations on a continuing basis. The seven-year GMA update requires a deliberate and comprehensive review of existing conditions, laws, plans, and regulations, including critical areas ordinances.

Three basic actions required

RCW 36.70A.130 clarifies action counties and cities fully and partially planning under the GMA need to take during the seven-year update process. Local governments must:

1. Establish a public participation program that identifies procedures and schedules for the review, evaluation, and possible revision process.
2. Review relevant plans and regulations and analyze whether there is a need for revisions.
3. Take legislative action.

It is important that each of these actions be explicitly affirmed by the local government's legislative body as having been accomplished in accordance with RCW 36.70A.130, both to comply with the statute and to set time and subject matter limits for possible challenges.

Discussion and suggestions for determining the appropriate local process for implementing the three actions is included below. Some example processes are included at the end of this bulletin.

1. Establishing a public participation program

RCW 36.70A.130(2)(a) requires that each city or county establish a public participation program that identifies procedures and schedules for comprehensive plan updates. (This requirement applies to all plan amendments, including the seven-year update process.)

In establishing a public participation program for its seven-year update process, a city or county must ensure that:

- Notice of the update process is broadly and effectively disseminated (RCW 36.70A.035).
- The notice identifies the procedures and schedules by which updates will be considered, including the remaining actions needed to complete the seven-year update.
- The program provides for early and continuous public participation (RCW 36.70A.140).

One way for a county or city to complete this requirement would be to publish a complete public participation program or schedule at the beginning of the update process. However, it is not required that a city or county establish the entire schedule at the beginning of the process, as long as a public participation program is established and effective notice is provided, for the remaining actions needed to complete the seven-year update.

It is also important to note that jurisdictions can adjust the public participation program as needed to best meet the intent of the requirement for public participation. RCW 36.70A.140 notes that “errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.” For example, if an established public participation program included one public hearing on all actions having to do with the seven-year update process, the program could be adjusted later to provide additional public hearings to accommodate strong public interest.

2. Reviewing relevant plans and regulations and analyzing the need for revisions

Counties and cities not planning under RCW 36.70A.040 must review and evaluate their policies and development regulations governing critical areas and natural resource lands. Counties and cities planning under RCW 36.70A.040 must review and evaluate all comprehensive plan provisions and development regulations adopted under the GMA. The statute does not exempt any portion of a comprehensive plan or any development regulation from being subject to review and evaluation. However, local governments may use common-sense factors in determining the *level* of review, taking into account when the plan and regulations were adopted and whether and how the GMA has been amended in the intervening time

The purpose of each jurisdiction reviewing its comprehensive plan and development regulations is to determine whether they comply with the GMA. To help with the analysis, the GMS program developed a list of questions (*GMA Update: Issues to Consider When Reviewing Comprehensive Plans and Development Regulations*) that identifies key points

of analysis for communities to consider. GMS provides two checklists (*Comprehensive Plan Checklist* and *Development Regulations Checklist*) to assist cities and counties in completing their reviews.

The review and analysis should include at least:

- An assessment of local and regional conditions, needs, trends, and changes that may affect plan and development regulation implementation. (See RCW 36.70A.020 for GMA goals.)
- A determination of how amendments to the GMA and other laws affect comprehensive plans and development regulations. (See the GMS publication, *GMA Amendments 1995-2005 and GMS checklists for Comprehensive Plan and Development Regulation review*).
- A review of the most recent population projections from the Washington State Office of Financial Management (OFM) to ensure that its comprehensive plan provides for the jurisdiction's ability to accommodate its projected growth in population and employment consistent with county-wide planning policies. (See Technical Bulletin 1.3.)
- Incorporation of any ruling from a court of law or growth management hearings board, or a finding of noncompliance with the GMA into its analysis.
- Consideration of any comment letters from CTED and other state agencies regarding consistency of a jurisdiction's plan and development regulations with the GMA. (Request copies of official agency comment letters from GMS.)
- Verification that the comprehensive plan is internally consistent (e.g., that the Land Use and Transportation elements support each other) and that the development regulations are consistent with and implement the comprehensive plan. The GMA requires such consistency. [See RCW 36.70A.040(4) and 36.70A.070.]

The process used to complete the analysis **must** provide for the following:

- An appropriate public process that provides notice to the public and to affected and interested state agencies far enough in advance to allow them to comment on the results of the review and analysis (see *Example Processes for Seven-year GMA Update* at the end of this bulletin).
- Documentation of findings, facts, analysis, and conclusions regarding which, if any, plan and/or regulations will be revised and those that are found compliant with the GMA.
- Notice and a public hearing, or hearings, presenting draft documents for review and comment.
- Legislative action (adoption of a resolution or ordinance following notice and a public hearing, at a minimum) by the legislative body of the city or county finding that the review and analysis were completed in accordance with RCW 36.70A.130.

Local governments may take legislative action immediately upon completion of the review and analysis, or in conjunction with the legislative action for action #3 below (see *Example Processes for Seven-year GMA Update* at the end of this bulletin).

Taking legislative action immediately upon the conclusion of the review and analysis starts the clock running on any appeal of the scope of review. Within 60 days after the legislative action, anyone who has participated in the jurisdiction's review and evaluation process could bring a challenge before the growth management hearings board alleging

that the jurisdiction is out of compliance with the GMA if it does not amend a specified section of its comprehensive plan or development regulations. However, the challenge could not be brought after the 60-day appeal period has passed, for example, during the amendment phase of the update program (basic action #3 below). Of course, the statute does not require the legislative action to be taken immediately after completion of the review and analysis, and any jurisdiction may choose instead to include a finding that the review and analysis was completed as part of its legislative action for #3 below.

3. Take legislative action

If the analysis identifies provisions of the existing plan needing revisions, the jurisdiction must take the next step by developing substitute or revised language to meet GMA goals and requirements. Various technical assistance materials are available from CTED and other state agencies (see www.cted.wa.gov/growth).

Because this is the final action cities and counties must take in fulfilling the seven-year update requirement of RCW 36.70A.130, there are a number of scenarios to consider (see *Example Processes for Seven-year GMA Update* at the end of this bulletin):

- a. Some jurisdictions have already established a regular program for periodic amendments to their plan (e.g., on an annual or biannual basis). For these jurisdictions, the process of adopting revisions identified for the seven-year update should be combined with the annual or biannual amendment process. RCW 36.70A.130(2)(a) prohibits consideration of comprehensive plan amendments more frequently than once per year; therefore, a city or county may not amend its plan under a seven-year update process and a separate annual or biannual process within the same year.
- b. For jurisdictions with limited resources and significant amendments to their plans and regulations, it may be necessary to complete the amendments in several phases, perhaps over more than one year. In some cases, each of these amendments will be adopted through a separate ordinance or resolution by the jurisdiction's legislative body. If this process is used, a public hearing should be conducted on each ordinance or resolution. It should be clearly identified in the public hearing notice and in the findings of each ordinance or resolution that the amendments are part of the seven-year update process. GMS recommends that the final legislative action taken upon completion of the entire seven-year update process clearly references all previously adopted amendments and includes a finding that, taken all together, these actions fulfill the requirements of RCW 36.70A.130. This final legislative action must occur prior to the deadline established for the jurisdiction in RCW 36.70A.130(4) and as provided for under ESHB 2171 or ESSB 6427.
- c. If all amendments to the comprehensive plan and development regulations to fulfill the seven-year update requirement are to be adopted simultaneously, they must be adopted by legislative action of the legislative body of the city or county (a resolution or ordinance following notice and a public hearing, at a minimum). The resolution or ordinance should include findings that refer to previous legislative actions that were part of the seven-year update process (e.g., resolutions to complete actions #1 and #2 above), and a finding that the jurisdiction has completed its seven-year update requirement under RCW 36.70A.130 or as provided for under ESHB 2171 or ESSB 6427.

- d. If the final legislative action is being combined with the review and analysis action (#2 above), the ordinance or resolution should include specific findings that the review and analysis have been completed. The findings should include a description of the review and analysis that was conducted and which comprehensive plan provisions and development regulations are currently in compliance with the GMA and do not need revision, and which plan provisions and/or regulations are being revised (see *Example Processes for Seven-year GMA Update* at the end of this bulletin).
- e. If the review and analysis conclude that the city or county completely meets all GMA requirements and no amendments to the comprehensive plan or development regulations are necessary, it must still take legislative action. Its legislative body must adopt an ordinance or resolution including specific findings that the review and analysis have been completed and the plan and regulations do not need revision. It should also include a finding that the jurisdiction has completed its seven-year update requirement under RCW 36.70A.130 and/or as provided for under ESHB 2171 or ESSB 6427.

A jurisdiction can complete the update process before their deadline. The deadline for their next update would then become seven years from the deadline for the jurisdiction set in RCW 36.70A.130(4). For example, counties and cities with a December 1, 2004, deadline, the first seven-year update can occur no earlier than January 1, 2001 [RCW 36.70A.130(6)].

Submitting documents to CTED

RCW 36.70A.106 requires each jurisdiction to notify CTED of its intent to adopt amendments to its plan or regulations at least 60 days prior to final adoption. To accurately reflect the jurisdiction's fulfillment of the update requirement, the following must be submitted to CTED:

- All adopted plans and regulations, including amendments
- All adopted resolutions regarding the GMA Update

Transmittal signals completion of the GMA Update by the jurisdiction in compliance with the RCW 36.70A.030. This will avoid possible delays in grants or other consequences because of a lack of accurate information.

While CTED notifies other agencies of document receipt, jurisdictions are responsible for transmitting copies directly to those agencies. Refer to this web link for the list of other agencies participating in GMA review.

http://www.cted.wa.gov/portal/alias__CTED/lang__en/tabID__871/DesktopDefault.aspx

Cities or counties that do not complete seven-year updates before the deadline

A jurisdiction that has not completed the three basic actions described above by the deadline set in RCW 36.70A.130(4) and as provided for under ESHB 2171 or ESSB 6427 would be vulnerable to a "failure to act" petition to a growth management hearings board.

CTED cannot waive or extend a jurisdiction's update deadline. Cities and counties must complete the seven-year update requirement and extended one-year requirement for critical areas ordinances for some jurisdictions, according to the established schedule to be considered in compliance with the GMA. Only those counties and cities in compliance with these schedules will be eligible to receive funds from the Public Works Trust Fund or the Centennial Clean Water Fund [RCW 36.70A.130(7)] or to receive preference for grants and loans subject to the provisions of RCW 43.155.050.

If a local government has made significant progress on its update, but is not able to adopt all needed revisions by their update deadline, it would be prudent to take steps to demonstrate good faith and progress. In such cases, CTED recommends the local jurisdiction (a) adopt, by the update deadline, a resolution that documents the local progress already made and containing a schedule for completing the update; and (b) continue moving ahead as quickly as possible to be in full compliance with the GMA. Following these interim steps does not relieve a local government of its update requirements or immunize it from a failure-to-act challenge, nor does it necessarily mean a local government will be eligible for state grants and loans.

Potential appeals of seven-year update actions to a growth management hearings board

A person or organization with legal standing could appeal a jurisdiction's resolution(s) or ordinance(s) adopted during the seven-year update process and extended one-year deadline for critical areas ordinances for some jurisdictions to a growth management hearings board. A petition for review by a hearings board potentially could be filed on each of the three basic actions needed to complete the update process. However, a jurisdiction can considerably reduce its risk of appeal by completing each of the three basic actions described above and taking legislative action that clearly documents the process followed for each action, as well as the findings and conclusions of each action.

As mentioned above, the jurisdiction has the option to take legislative action immediately upon completion of each individual step in the update process, or in a single, combined legislative action affirming all steps in the update process are complete. One advantage of taking separate legislative action immediately upon completion of each step in the update process is any appeal of each action must occur within 60 days of its adoption and publication. Therefore, it is possible for the jurisdiction to learn of any appeals – and perhaps resolve them – before proceeding with the next update action.

Future Updates

Subsequent updates must occur every seven years after the initial update schedule established in 2002. This means that the next round of updates coincide with the first round of Shoreline Master Program updates starting in 2011 (except early adopting jurisdictions). A local government can complete the process before the deadline, with the next update deadline being seven years from that date.

Resources

www.cted.wa.gov/growth

Example ordinances

Sample ordinances

Good examples of update documents and processes

Comprehensive Plan Checklist

Development Regulations Checklist

Frequently Asked Questions Regarding GMA Updates

GMA Update: Issues to Consider When Reviewing Comprehensive Plans and Development Regulations

GMA Amendments 1995-2005

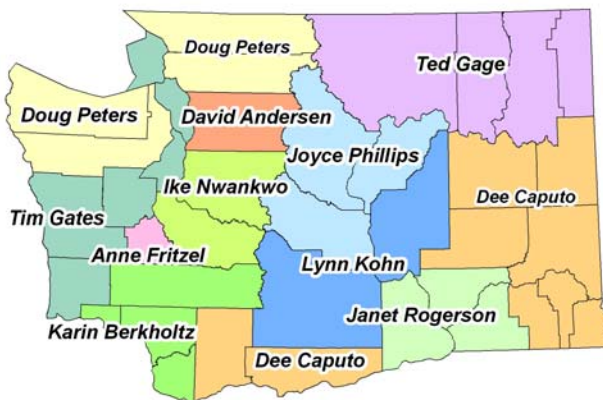
Municipal Research Services Center www.mrsc.org/

Chapter 365-195, Washington Administrative Code <http://apps.leg.wa.gov/WAC>

GMA Goals, RCW 36.70A.020 <http://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A>

Contact

For more information, contact the GMS regional planner for your area at (360) 725-3000, or by mail at P.O. Box 42525, Olympia, Washington 98504-2525.



The GMS Web site posts GMA Update information: www.cted.wa.gov/growth.

Example Processes for Seven-year GMA Update

These examples summarize some processes local governments could use to complete the seven-year update requirements under RCW 36.70A.130. Expand, and modify these samples to reflect local circumstances, needs and policies. This is not an exhaustive listing of processes, merely suggested approaches.

A. Example with a single legislative action:

1. Establish and advertise public participation program.
2. Staff or consultant conducts review of entire comprehensive plan and development regulations and analysis of needed revisions based on GMA compliance.
3. Local government legislative body approves work program for revisions, if necessary, to comprehensive plan and development regulations.
4. Needed revisions are completed and adopted by ordinance or resolution of legislative body following public notice and hearing, at a minimum. Adopting ordinance or resolution includes findings detailing that the local government:
 - Established its public participation program,
 - Reviewed its entire comprehensive plan and development regulations,
 - Determined which revisions to its plan and regulations were needed (and why other provisions of the plan and regulations did not need revision),
 - Is adopting the needed revisions, and
 - Has completed its seven-year update requirement under RCW 36.70A.130 and the one-year extension for critical areas ordinances for some jurisdictions as provided for in ESHB 2171.

B. Example with legislative action immediately following each step:

1. Establish public participation program by adoption of resolution by legislative body.
2. Conduct review of entire comprehensive plan and development regulations and invite public input.
3. Analyze plan and regulations for needed revisions based on GMA compliance.
4. Advertise and conduct at least one public hearing asking for public comments on the results of the review and analysis of the plan and regulations. Public notice of the hearing states explicitly that the hearing will be the final opportunity for comment on what plan provisions and regulations should be revised.
5. Upon completion of the public hearing, legislative body adopts resolution finding that the local government has:
 - Reviewed its entire comprehensive plan and development regulations,
 - Provided public opportunity to comment on the review and suggest needed revisions of the plan and regulations,
 - Determined which revisions to its plan and regulations were needed (and why other provisions of the plan and regulations did not need revision), and
 - Established a work program for the needed revisions.
6. Needed revisions are completed and adopted by ordinance or resolution of legislative body. Ordinance or resolution includes findings detailing that the local government:
 - Followed its established its public participation program,
 - Is adopting the needed revisions, and
 - Has completed its seven-year update requirement under RCW 36.70A.130 and the one-year extension for critical areas ordinances for some jurisdictions as provided for in ESHB 2171.

C. Example with phased completion of revisions to comprehensive plan and development regulations:

1. Complete steps 1-3 of Example A or 1-5 of Example B above.
2. Work program details the schedule for completing needed revisions in phases, clearly stating each phase is part of the revisions needed for the required seven-year update and will be adopted separately.
3. As each revision or package of revisions is completed, it is adopted by ordinance or resolution of the legislative body. Ordinance or resolution includes findings that the local government has:
 - Followed its established its public participation program, and
 - Is adopting the revisions as part of the seven-year update requirement under RCW 36.70A.130 and as amended under ESHB 2171.
4. When adopting the final revisions, the legislative body adopts an ordinance or resolution that includes the finding in the previous step, and also includes findings that reference all previous ordinances/resolutions adopting revisions, and that the local government has completed its seven-year update requirement under RCW 36.70A.130 and as amended under ESHB 2171.

ESSB 6427

An act relating to schedules for the review of comprehensive plans and development regulations for certain cities and counties; reenacting and amending RCW 36.70A.130; and creating a new section. This legislation allows counties and cities meeting specific population requirements to satisfy review and revision requirements of the Growth Management Act (GMA) 36 months after applicable deadlines. The law defines small and slow-growing counties as those with a population of less than 50,000 and a growth rate of 17 percent or less over the ten-year period prior to their update deadline. Small and slow-growing cities are those with a population of 5,000 or less and a growth rate of 17 percent or less over the same ten-year period

Qualifying counties	Qualifying cities within
Adams	Ritzville; Washtucna
Asotin	Asotin
Columbia	Dayton; Starbuck
Douglas	Bridgeport; Mansfield; Waterville
Ferry	Republic
Garfield	Pomeroy
Klickitat	Bingen; Goldendale; White Salmon
Lincoln	Almira; Creston; Davenport; Harrington; Odessa; Sprague; Wilbur
Okanogan	Brewster; Coulee Dam; Elmer City; Nespelem; Okanogan; Omak; Oroville; Pateros; Tonasket; Twisp; Winthrop
Pacific	Ilwaco; Long Beach; Raymond; South Bend
Pend Oreille	Cusick; Ione; Metaline; Metaline Falls; Newport
Skamania	Stevenson
Stevens	Chewelah; Colville; Kettle Falls; Northport; Springdale
Wahkiakum	Cathlamet
Whitman	Albion; Colfax; Colton; Endicott; Garfield; La Crosse; Malden; Lamont; Oakesdale; Palouse; Rosalia; St. John; Tekoa; Uniontown,
<i>Non-qualifying counties</i>	Qualifying cities located in non-qualifying counties
<i>Benton</i>	Benton City
<i>Chelan</i>	Cashmere; Chelan; Leavenworth
<i>Cowlitz (CARL)</i>	Castle Rock (CARL)
<i>Franklin</i>	Kahlotus
<i>Grant</i>	Coulee City; Electric City; George; Grand Coulee; Hartline; Krupp, Soap Lake; Wilson Creek
<i>Grays Harbor (CARL)</i>	Cosmopolis; Elma; McCleary; Montesano; Oakville; Westport
<i>Island</i>	Coupeville; Langley
<i>Kittitas</i>	Cle Elum; Kittitas; Roslyn
<i>Lewis</i>	Mossyrock; Morton; Pe Ell; Toledo; Winlock
<i>Mason</i>	No cities qualify
<i>San Juan</i>	No cities qualify
<i>Skagit</i>	Concrete; La Conner
<i>Spokane</i>	Deer Park; Fairfield; Latah; Medical Lake; Millwood; Rockford; Sprangle; Waverly
<i>Walla Walla</i>	Prescott; Waitsburg
<i>Yakima</i>	Naches; Wapato